IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24129 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HARSHALBEN GOVINDBHAI PATEL
Versus
UNION OF INDIA

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Appearance :
MR MB GANDHI for Petitioner,MR CHINMAY M GANDHI for Petitioner.
MR DHAVAL G NANAVATI for Respondent.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 28/09/2007

ORAL JUDGMENT

1. According to the petition, the petitioner had obtained a passport and got it cancelled because of variations found in the place of birth in the School Leaving Certificate as compared to Birth Certificate issued by the State of Gujarat and, therefore, had applied for a fresh passport, but the respondent authority has refused to change the place of birth and

informed the petitioner by letter dated 7-9-2007 to furnish an order from the Court of competent jurisdiction certifying valid date and place of birth.

2. It is stated by filing an affidavit-in-reply of the Assistant Passport Officer, Ahmedabad that, the petitioner wanted to change her birth details by submitting a copy of the birth certificate, which was registered after 15 years of her birth; that none of the fundamental rights of the petitioner was violated; that, in fact, the petitioner had herself created the disputed documents and a declaratory order regarding correct details of birth was required.

3. It clearly appears from above facts that the petitioner has applied for a fresh passport with details of place and date of birth, which are at variance with the details furnished by herself at the time of applying for and obtaining earlier passport. Therefore, the passport authority was required to make an enquiry, which appears to have been initiated by issuing aforesaid letter dated 7-9-2007. It also appears that, since the passport authority would not be competent to determine the correct date of birth, out of the conflicting documents submitted by the petitioner herself, the authority has insisted upon an order of competent Court in terms of the circular and guidelines issued by the Ministry of External Affairs vide Circular No.VI/401/2/5/2001 dated 18-4-2001. Thus, the passport authority has only followed the procedure prescribed by law and the guidelines issued by the Ministry concerned. In any case, it would not be proper for this Court to exercise its extraordinary writ jurisdiction to issue a writ of mandamus, as claimed by the petitioner, to straightway direct the authority to accept as true and correct the documents submitted by the petitioner. There are detailed provisions in the Passport Act for recourse to an appeal, if and when the passport

authority refuses to issue passport. Therefore, the present petition is found and held to be premature and not maintainable at this stage. Accordingly, it is dismissed and Rule is discharged with cost quantified at Rs.2,500/-, which shall be paid by the petitioner to the respondent.

(D.H.Waghela, J.)

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